

Paul M. Wach  
Pro Se

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U.S. DISTRICT COURT

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**IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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Paul Michael Wach ,  
Petitioner,

v.

Custodian: Warden Robert Powell,  
Respondents

Petitioner's Motion to Strike Respondents Surreply  
Under DuCivR 56-1.

Case No. 2:22-CV-00048

Judge: Dale Kimball

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Petitioner respectfully submits his motion pursuant to DuCivR 7 and in compliance with local rules.

## **Relevant Facts**

### **1. Original Filings by Petitioner**

Paul M. Wach

Petition for a Writ of Habeas Corpus under 28 USC § 2241

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: January 10th 2022

### **2. Respondents first Response**

The Utah Board of Pardons and Parole, et al

Respondents Motion to Dismiss and Memorandum in Support

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: November 28th 2022

### **3. Petitioners Reply to Respondents Response**

Paul M. Wach

Petitioners Response to Respondents Motion to Dismiss and Memorandum in Support

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: December 22nd 2022

### **4. Respondents second response**

The Utah Board of Pardons and Parole, et al

Reply in Support of Respondents Motion to Dismiss

Case No. 2:22-CV-0048

Judge Kimball

Date Filed: January 11th 2023

## **Argument**

Petitioner submits this Motion to Strike Respondents Surreply Under DuCivR 56-1. The Court should grant this Motion to Strike because Respondents did not seek the Courts permission before filing a surreply nor is this type of reply contemplated by the applicable rules without the leave of this court. Rule 56-1 and 7-1 of the Local Rules of Civil Procedure only provides for three filings in this situation: (1) Motion, (2) Response, (3)Reply. Such a surreply is not contemplated by the current rule DuCivR 56-1. Petitioner did not raise new material in their reply brief that would warrant this Court's consideration of Respondents surreply notwithstanding Respondents failure to seek the Courts leave to file Respondent's reply.

## **Conclusion**

Neither the local rules nor the Federal Rules of Civil Procedure provide for a surreply by a non-moving party. Thus Respondents are not entitled to this Courts consideration of their surreply.

Submitted this 26th day of January, 2023

Paul M. Wach  
Pro Se

## CERTIFICATE OF MAILING

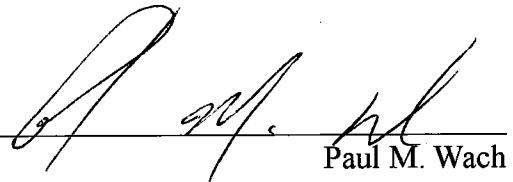
I certify that true and correct copies of **Petitioner's Motion to Strike Respondents Surreply Under DuCivR 56-1** was mailed Postage Prepaid on January 26th, 2023 to the following:

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351 South West Temple  
Salt Lake City, Utah 84101

and

Office of the Utah State Attorney General  
ATTN: Amanda N. Montague (9941)  
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P.O. Box 140812  
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Inmate Number 27714

Inmate Housing U.S.C.F BY FC 2146

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U.S.A. MAIL ATTN. UNITED STATES DISTRICT COURTHOUSE  
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